

IN THE MATTER OF  
ROBERT NEVILLE, D.P.M.

AGREED ORDER

LICENSE No. 0990

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BEFORE THE TEXAS STATE  
BOARD OF PODIATRIC  
MEDICAL EXAMINERS

SITTING IN AUSTIN,

TRAVIS COUNTY, TEXAS

AGREED ORDER

BE IT REMEMBERED that on the date approved and entered below came to be considered the allegations against Robert Neville, DPM. By letter dated July 5, 2005 the staff of the Texas State Board of Podiatric Medical Examiners (the "Board") gave preliminary notice to Dr. Neville of its intent to investigate complaints, concerns or reports filed against him. Dr. Neville was duly notified of the allegations against him. Dr. Neville has cooperated with the staff of the Board and was given the opportunity to present information in rebuttal.

By his signature on this Order, and upon acceptance and entry of this Order by the Board, Dr. Neville hereby waives his right to an administrative hearing before the State Office of Administrative Hearings, and judicial review of this Order. Dr. Neville understands that he has the option, before signing this Agreed Order, to participate in a contested case hearing under the *Administrative Procedure Act*.

The Board and Dr. Neville, in order to avoid the expense, delay and uncertainty of a hearing, have agreed to the entry of an Order dispensing with the need for further action in this matter. Dr. Neville agrees to this Order for the purpose of resolving this proceeding only. The Board makes the following Findings of Fact and Conclusions of Law and enters this Order:

FINDINGS OF FACT

1. Dr. Neville is licensed as a podiatric physician in the State of Texas (License Number 0990) to practice podiatric medicine and is therefore subject to the jurisdiction of the Board, the Podiatric Medical Practice Act of Texas and the rules of the Board.
2. A complaint was filed against Dr. Neville, and he was provided with notice of the complaint and with an opportunity to respond to the complaint and to show compliance with the law.
3. Dr. Neville, as a podiatrist licensed in the State of Texas, must comply with the provisions of the Podiatric Medical Practice Act of Texas, the Board Rules and Board Orders.
4. Dr. Neville's office saw the patient on 09/23/2002.
5. The patient was evaluated and treated by Dr. Neville's associate, Jeffrey T. Domingue, DPM.
6. Dr. Domingue documented the patient's office visit minimally and described signs of

- onychomycosis with no clear diagnosis.
7. Treatment that was administered to the patient was debridement of all 10 toenails with no medical treatment of fungal nails.
  8. For billing purposes, diagnosis codes correlating to onychomycosis, lymphedema, and tinea pedis were used.
  9. CPT code 99204 was used to bill for the office visit, yet the medical records do not support this level.
  10. CPT code 97022 (whirlpool therapy) was billed, yet not properly documented in the medical record.
  11. CPT code 11721 (debridement of 6+ nails) was used for billing directly to the patient rather than to the insurance carrier.

### CONCLUSIONS OF LAW

1. Dr. Neville's office is required to follow the provisions of the Podiatric Medical Practice Act, Texas Occupations Code, §202.001, et seq., and the associated Rules of the Board, 22 Tex. Administrative Code § 371.1, et seq..
2. Texas Occupations Code, §202.253(a)(5) provides that, "the board may refuse to issue a license to practice podiatry to a person, for directly or indirectly violating or attempting to violate this chapter or a rule adopted under this chapter as a principal, accessory, or accomplice."
3. Texas Occupations Code, §202.501(a) provides that, "the Board shall revoke or suspend a license; place on probation a person whose license has been suspended, or reprimand a license holder for violating the law regulating the practice of podiatry or a rule adopted by the board."
4. Texas Occupations Code, §202.5015 provides that a license holder who engages in conduct described by Section 202.253 violates this chapter.
5. 22 Texas Administrative Code, §376.1(a)(1) provides that, "any podiatric physician who violates any provision of these rules, or any provision of the Act shall be at the discretion of the Board subject to the following penalties: cancellation, suspension, revocation, or probated cancellation, revocation, or suspension of the license to practice podiatric medicine."
6. The Findings Of Fact numbers 1 through 11 establish that Dr. Neville violated: *22 Texas Administrative Code §375.112(a)*, which provides in part that: "all podiatric physicians shall make, maintain, and keep accurate records of the diagnosis made and the treatment performed for and upon each of his or her patients for reference and for protection of the patient."
7. The Findings Of Fact numbers 1 through 11 establish that Dr. Neville violated: *Texas Occupations Code, §202.253(a)(5)* in that he: directly or indirectly violated or attempted to violate this chapter or a rule adopted under this chapter as a principal, accessory, or accomplice.

### ORDER

1. Dr. Neville shall pay an administrative penalty of \$500.00 (Five Hundred Dollars and no/100) fully due and payable within 90 (ninety) days after the effective

- date of this Agreed Order.
2. Dr. Neville shall complete an additional ten (10) hours of Continuing Medical Education in addition to the thirty (30) hours already required by law. The ten (10) hours shall consist of medical record keeping and billing courses offered by the Texas Podiatric Medical Association or the Texas Medical Association, and shall be completed by October 31, 2006. Proof of completion of the additional hours shall be submitted to the board in the form of authorized certificates by November 30, 2006.
  3. Entry of this Order shall finally resolve any and all matters or investigations before the Board pending as of the date this Order is approved by the Board.
  4. The terms of this Agreed Order, if accepted by the Board, become effective upon approval of the Board.
  5. If Dr. Neville fully complies with the terms of the Agreed Order, the Board agrees not to bring any further disciplinary action regarding the facts that are the subject of this Order.
  6. Failure to comply with all the terms of this order will subject Dr. Neville to further and additional disciplinary and enforcement action.

### GENERAL PROVISIONS

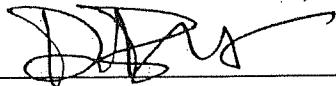
1. Effective Date. This **Agreed Order** shall take effect and become binding upon the approval by the Board.
2. No Waiver. No waiver of any of the terms of this **Agreed Order** shall be valid unless in writing. No waiver of default of any terms of the **Agreed Order** shall be deemed a waiver of any subsequent breach or default of the same or similar nature.
3. Governing Law. This Agreed Order is entered into pursuant to and shall be construed in accordance with the laws of the State of Texas including *Tex. Occup. Code Ann., §202.001 et seq., the Podiatric Medical Practice Act;* and *Tex. Gov't Code Ann., §2001.001 et seq., the Administrative Procedure Act.*
4. Acknowledgment of Entire Agreement. Dr. Neville acknowledges that he has carefully read this instrument, including all documents or exhibits, if any, that are referred to, that this instrument expresses the entire agreement between the parties concerning the subjects it purports to cover, and Dr. Neville has executed this instrument freely and of his own accord.
5. Notice. Any notice to be given under the terms of this **Agreed Order** by either party to this order shall be in writing and shall be delivered by personal delivery or certified mail, return receipt requested, to the following addresses:

Dr. Robert Neville, DPM  
1120 Medical Plaza Drive, Suite #180  
The Woodlands, Texas 77380

Texas State Board of Podiatric Medical Examiners  
P.O. Box 12216  
Austin, TX 78711-2216

6. Upon approval of this Agreed Order by the Board, the Presiding Officer and the Executive Director are authorized to sign the Order on the Board's behalf.

**I, ROBERT NEVILLE, DPM, HAVE READ AND UNDERSTAND THE FOREGOING ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE THE RIGHT TO A HEARING BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AND TO JUDICIAL REVIEW OF THE AGREED ORDER. I SIGN IT VOLUNTARILY. I UNDERSTAND THE AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, ORAL, WRITTEN OR OTHERWISE.**

  
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Robert Neville, DPM

7-21-05  
Date

IN THE STATE OF TEXAS

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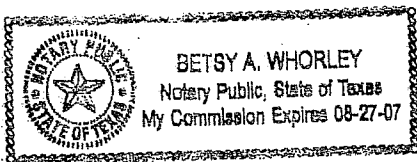
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COUNTY OF Montgomery

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BEFORE ME, on this day personally appeared Robert Neville known to me, who first, being duly sworn, signed the foregoing **Agreed Order** in my presence.

SIGNED on this the 21<sup>st</sup> day of July, 2005.



Betsy A Whorley  
(Printed Name of Notary Public)

Betsy A Whorley  
Notary Public, in and for the State of Texas

APPROVED AND ENTERED by the Texas State Board of Podiatric Medical Examiners on this the 8th day of August, 2005, after a Board vote.

Bradford Glass  
Bradford Glass, D.P.M.  
Board President

Jim Zukowski  
Jim Zukowski, Ed.D.  
Executive Director